In the Supreme Court of the United States

OCTOBER TERM, 1948

No. 94

CELESTINO IRIARTE, JR., ET AL., PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

SUPPLEMENTAL MEMORANDUM FOR THE UNITED STATES

The attention of the Court is invited to the fact that the statutory provision relied on by petitioners as entitling them to a jury trial, 28 U. S. C. 770, R. S. secs. 566, 648, has been repealed, effective September 1, 1948. Pub. Law No. 773, 80th Cong., 2d sess. (June 25, 1948), sec. 39. The portions of those sections relating to jury trial in cases of admiralty and maritime jurisdiction are now embodied in 28 U. S. C. 1873. The Reviser's note to that section states, "The first sentence of section 770 of title 28, U. S. C., 1940 ed., providing generally for the right of jury trials in district courts, was omitted as covered by rule 38 of the Federal Rules of Civil Procedure." H. Rep. No. 308, 80th

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Cong., 1st sess. (1947) p. A159; U. S. C. Congressional Service, 80th Cong., 2d sess., p. 1884. The Federal Rules of Civil Procedure are of course inapplicable to trials of condemnation cases. Rule 81 (a) (7).

Respectfully submitted.

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OCTOBER 1948.

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